



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,821	04/14/2004	Bretislav Kostal	KOSTAL ET AL 4	5624

25889 7590 01/17/2006

WILLIAM COLLARD  
COLLARD & ROE, P.C.  
1077 NORTHERN BOULEVARD  
ROSLYN, NY 11576

EXAMINER
----------

TYLER, STEPHANIE E

ART UNIT	PAPER NUMBER
----------	--------------

3754

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

e

<b>Office Action Summary</b>	<b>Application No.</b> 10/823,821	<b>Applicant(s)</b> KOSTAL ET AL.	
	<b>Examiner</b> Stephanie E. Tyler	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 9 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

Detailed Action

***Specification Objection***

"The" should be removed from page 1, line 16, paragraph 2, second sentence. Under the heading "DESCRIPTION OF THE PRIOR ART".

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 5 recites the limitation "passage in the sleeve" in line 3, page 10. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas (3,794,791).

Thomas discloses in figure 1 and 15 a control light unit for a light source in combination with a spray-defense container with an actuating button and nozzle having a housing portion including a light source (1), an opening for the container nozzle (60), a

Art Unit: 3754

sleeve portion (51) including an upper part (69) for receiving the housing, a lower part that is in relationship to the container.

Also the Thomas reference discloses in figure 1 and 15 a control light unit for a light source in combination with a spray-defense container having a cover (35) with a coupling portion, a free portion with an internal compartment for supporting a battery source (5).

Further the Thomas reference discloses in figures 1 and 15 a control light unit for a light source in combination with a spray-defense container having a means for rotational mounting the coupling portion on the housing, a circuit means for electrically connecting the battery source to the light source (1), and a switch (35) means in connection with the housing, and a cover for closing and opening the circuit means.

Regarding claim 2 note in figures 1 and 15 that the control unit has a upper part of the sleeve (51) with a recess for receiving the housing and a passage opposed to the recess for access to the container button.

Regarding claim 4 note in figure 1 and 15 that the control unit discloses the sleeve in the form of a case for receiving the container.

Regarding claim 6 note in figure 15 that the control unit housing has an upper part for receiving a light source and a lower part provided with an opening for the container nozzle and further having a front side including an aperture for a light source in the upper part and an opening in the lower part and a back side wherein the free portion of the cover is situated in its closed position in a plane substantially

Art Unit: 3754

perpendicular to the longitudinal axis of the container and extends partially into the passage in the sleeve to occupy the space behind the back side of the housing.

Regarding claim 8 not in figure 15 that the control unit housing portion and the sleeve portion are integrated in one body.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being obvious over Thomas (3,794,791). The Thomas reference does not show the cover with a flange to place over the spraying container. However it is noted in the art that conventional aerosol cans have a cover with a flange for the purpose of covering the nozzle of the spraying device.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the Thomas cover (figure 1 and 15) with a conventional flange in order to permit quick attachment to an aerosol can.

Art Unit: 3754

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being obvious over Thomas (3,794,791).

Although the Thomas reference does not specifically mention that the light bulb could alternatively be an LED, it is a common conventional practice to have an LED type light source for a flashlight.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have used an LED light source in the flashlight of Thomas in order to provide a brighter light source.

***Allowable Subject Matter***

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claim 10 is allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie E. Tyler whose telephone number is 571-272-8059. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 517-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SET



MICHAEL MAR  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700